

OFFICE OF THE DIRECTOR

DEPARTMENT OF MOTOR VEHICLES

P.O. BOX 932328

SACRAMENTO, CA 94232-3280

**TITLE 13: DEPARTMENT OF MOTOR VEHICLES****NOTICE IS HEREBY GIVEN**

The Department of Motor Vehicles (the department) proposes to amend Sections 120.00, 120.01, 120.02, 124.93 and 124.95 and to repeal Section 120.04 in Chapter 1, Division 1 of Title 13, California Code of Regulations.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 P.M., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M., **November 26, 2007**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt this regulation under the authority granted by sections 1651 of the Vehicle Code in order to implement, interpret or make specific sections 1801, 1801.1, 13352.1, 13352.4, 13352.5, 13353, 13353.4, 13353.45, 13353.7, 14904, 15024, 16430, and 23152 of the Vehicle Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department of Motor Vehicles (the department) proposes to amend sections 120.00, 120.01, 120.02, 124.93, and 124.95, and repeal section 120.04 of Article 2.5 of the California Code of Regulations, relating to the Driving Under the Influence (DUI) Program.

Senate Bill 1697 (Chapter 551, Statutes of 2004) eliminates the court's authority to grant probation to a first offender convicted of driving under the influence and restrict the person's driving privilege to driving to/from a driving under the influence program, and to/from work, and while driving during the course of employment. The court will serve notice of the suspension to the person for a period of 6 months and send the department an abstract of the court record.

SB 1697 eliminates the options to persons seeking a restricted license under the Administrative Per Se Law provisions of Vehicle Code Section 13353.7, who formerly could choose between a restriction of 3 months, allowing driving only to/from a DUI program, or of 5 months with the

additional privilege of driving to/from work and during the course of employment. As revised, the current law allows all persons granted the restricted license to drive to/from the DUI program, to work, and during the course of employment for a period of 5 months.

SB 1697 allows the person to apply to the department for a restricted driver license unless the court expressly has notified the department that the person is too dangerous to be allowed to drive before completion of the DUI program. The restricted license, issued under Vehicle Code section 13352.4, allows the person to drive for a period of 6 months in order to travel to/from a DUI program, to/from work and during the course of employment.

If the person's driving privilege has been suspended under both Vehicle Code sections 13352(a)(1) and 13353.3(b)(1), credit for the APS suspension shall be applied towards completion of the 6 month suspension imposed under section 13352(a)(1).

SB 1697 also eliminates the need of a "regulatory clock" to track the time from issuance of a restricted driver license to a "first offender" to the time allocated to complete the required DUI program, and the department's requirement to suspend if the person fails to finish in time. Those provisions are defined in section 120.04 of Article 2.5 of Division 1, Chapter 1 of Title 13. The revised provisions allow the restriction to run indefinitely until the person completes the program or until the program provider notifies the department that the participant is not participating in the required activities. Upon notification from a DUI program provider that a person is not participating, the department immediately suspends the person's driving privilege, pursuant to either Vehicle Code section 13352 or 13352.1, until that person has completed all requirements to reinstate the driving privilege.

Assembly Bill 1353 (Chapter 164, Statutes of 2005) increases the length of the first offender DUI program to nine months if the driver's blood alcohol concentration was .20% or greater.

Assembly Bill 979 (Chapter 646, Statutes of 2005) reduces the mandatory suspension period that a driver convicted of multiple violations of driving under the influence must serve to 12 months before he or she is eligible for a restricted driver license if he or she also:

- Has enrolled in a DUI program of either 18 months or 30 months if suspended under section 13352(a)(3).
- Has completed 12 months of either an 18 month or a 30 month DUI program if revoked under section 13352(a)(4), (5), (6), or (7).

Senate Bill (SB) 1756 (Chapter 692, Statutes of 2006) added Vehicle Code section 13352.1, extending the driver license suspension to ten months if the driver's blood alcohol concentration was .20% or greater and the court refers the person to a program pursuant to Vehicle Code section 23538(b)(2).

To comply with these bills, the department has revised the Proof of Enrollment Certificate, DL 107, and the Notice of Completion Certificate, DL 101, used to report facts required by existing law and by the new reporting requirements. The dates of the latest revisions will be shown in the regulations.

DOCUMENTS INCORPORATED BY REFERENCE

The following forms are incorporated by reference in Sections 120.00, 120.01, 120.02, and 124.93. These forms are not published in the California Code of Regulations because it would be impractical and cumbersome to publish these documents in the California Code of Regulations.

- Notice of Completion Certificate, DL 101 (REV 1/2007)
- Proof of Enrollment, DL 107 (REV 7/2006)

These documents are available upon request directly from the department and are reasonably available to the affected public from a commonly known or specified source.

FISCAL IMPACT STATEMENT

- Cost or Savings To Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.
- The adoption of this regulation is not expected to create or eliminate jobs or businesses in the state of California or reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will not affect small businesses. Driving Under the Influence Program providers will be required to submit specified forms to the department as they have always been required to do. The contents of the forms have been revised.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Randi Calkins, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-8898, or rcalkins@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to Erik Meyer at (916) 657-8954 or emeyer@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657-1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeouts to indicate deletions from the California Code of Regulations. The contact person identified in this notice shall also make available to the public, upon request, the final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at www.dmv.ca.gov/about/lad/regactions.htm.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period and the hearing, if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full, modified text with changes clearly indicated would be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.